

**In The Court of Commissioner, Saran Division, Chapra**

**B.L.D.R. Appeal No. 206/2013**

**Suraj Lohar & ors.**

**Vrs.**

**Kunwar Lohar & ors.**

**ORDER**

23-06-2014 . The instant appeal petition is directed against the impugned order passed by DCLR Hathua in BLDR case No. 4/2013-14 on 29.06.2013.

The brief facts of the case are that the present respondent Kunwar Lohar alias Ram Kunwar Sharma R/o Vill-Farusahan, P.S.-Vijaypur, Dist-Gopalganj had filed a case before DCLR Hathua vide BLDR case No. 4/2013-14 by impleading present appellant Suraj Sah S/o Late Raja Sah and Mohan Sah, S/o Late Jonhilal Sah as o.p. In the said case the prayer of present respondent, as petitioner before DCLR, was that the land measuring 7 katha of khata No. 125, plot No. 276 and of plot No. 83, having area 17 katha 15 dhur, altogether a total of 1 Bigha 4 katha 15 dhur was acquired by him from Bhoodan and after rent fixation Jamabandi No. 242 was created in his favour but the present appellant (o.p. before DCLR) were making undue interference and were threatening him of dispossession as such they be restrained from making any hindrance in his possession. Thereafter, the learned DCLR, issued notice to the o.ps and after hearing their respective claims, finally vide order dt. 29.06.2013, allowed the said case and restrained the o.ps (petitioner before this Court) from making any hindrance in the possession of the present respondents. Feeling aggrieved by the said order, the present appellants have preferred this appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner, while assailing the impugned order passed by DCLR, submitted that the said order has been passed in a mechanical way without considering the documents and appreciating the law and facts involved in the case. He further submitted that the said disputed land of khata No. 125 having area 7 katha is recorded in R.S. Khatiyani as Gair Majurwa Malik, Hathua Raj who as a land landlord settled the said land in favour of the appellant No. 1 on 12.08.1947 at the payment of Rs. 225 and granted rent receipt No.0279645 and later on this plot was amalgamated in the Kashtkari plot No. 392 of the appellant and ever since then the appellant has been coming in peaceful possession over the same. He further argued that after vesting of Jamindari, Jamabandi No. 241 was created and the appellants used to pay the rent to the Govt. He also argued that the respondent has created a forged and fabricated documents from Bhoodan in his name on 28.02.1966 while he was three year old which is against the Bhoodan laws. He further submitted that in a Misc. No. 854/1972 u/s 144 cr. P.C. filed by the respondent No. 1 against the appellant No. 1 which was decided in compromise on 30.07.1975 in which only 2 katha 15 dhur was given to the respondent No. 1 towards north and the rest 4 katha 5 dhur towards south was given to the appellant upon which the appellant has peaceful possession. He lastly submitted that as the appellant has his adverse possession over the disputed land, the order of DCLR, restraining him from interfering in the same land is not correct as such the said order is fit to be set aside.

The learned counsel appearing on behalf of the respondent while supporting the impugned order submitted that the said order is a valid order as the competent authority, the DCLR shall not have any jurisdiction to review or reopen any finally concluded and adjudicated

*b*

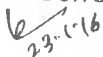
matter as per the provision contained sub-clause (2) of section-4 of the BLDR Act. He further argued that it was the Bhoodan Yagna Committee which settled the land with the respondent and this settlement can not be declared invalid or set aside by the DCLR and as such he allowed the petition in favour of the respondent. He also argued that the claim of appellant that 6 decimal of land was given to him as per the terms and compromise is incorrect. The said claim is not sustainable as no land settled by Bhoodan Committee can be transferred to anybody. Regarding the claim of the appellant that the Bhoodan certificate of the respondent is forged and fabricate, the learned counsel is of the view that this fact can not be decided by the learned DCLR under the BLDR Act. He lastly submitted that it is for the appellant to obtain a certificate from the Bihar Bhoodan Yagna Committee that no settlement of Bhoodan land has been made in favour of the respondent and as there is no merit in this appeal, the same deserves to be dismissed.

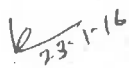
Considering the facts and circumstances of the case, material available on records, claims and counter-claims advanced by the learned counsel for the parties and on perusal of the impugned order it is seen that both parties are claiming their possession over the whole area or some part thereof either one or another basis. The claim of the appellant that 4 katha 5 dhur land towards south of plot No. 276 was given to him after a compromise reached with the respondent in a proceeding u/s 144 of Cr.P.C. However, the respondent's claim that plot No. 276 whose total area is 7 katha was settled to him by the Bhoodan Yagna Committee and rent fixation and jamabandi of the said land is existing with him. The nature of dispute between the parties obviously relates to their respective claim over the Bhoodan land. It is seen that the learned DCLR, in his detailed order after carefully considering all facts and relevant documents of the parties finally came to the conclusion that the claim of the appellant (o.p. before DCLR) was wrong and baseless and accordingly he allowed the case in favour of the present respondent holding that the present appellants do not have any right to dispossess the present respondent from the land in question who is in possession over the same as Bhoodan allottee. I do not find any apparent infirmity in the said findings of the learned DCLR. Moreover, the learned counsel has miserably failed to bring any reasonable fact so as to warrant any interference in the said findings of the DCLR from this Court. In fact the claim of the appellant is merely based on getting 4 katha 5 dhur from the said plot on compromise which has not been approved by the DCLR earlier in the compromise.

Thus, the aforementioned reasons, I do not find any good ground to make any interference with the impugned of DCLR and accordingly the same is upheld.

In the result, this appeal petition is dismissed.

Dictated and Corrected by me.

  
23.1.16  
Commissioner,  
Saran Division, Chapra

  
23.1.16  
Commissioner,  
Saran Division, Chapra